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November 3, 2003

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The Honorable Jim Talent  
United States Senate  
493 Russell Senate Office Building  
Washington, D C 20515-2505

**K C M B A**

**Kansas City Metropolitan Bar Association**

*Serving Greater Kansas City's Legal Community - Kansas and Missouri*

Re FCC "Do Not Fax" Regulations

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FEB 11 2004

Federal Communications Commission  
Office of the Secretary

Dear Senator Talent

I am writing on behalf of the Board of Directors of the Kansas City Metropolitan Bar Association, a Missouri non-profit corporation, to alert you to the recent actions taken by the FCC to amend the regulations that implement the Telephone Consumer Protection Act of 1991 (TCPA). The FCC has decided, without the proper input from the business and association community, to modify the current law by doing away with the "established business relationship" provision pertaining to fax advertisements. This amendment will place onerous administrative and economic burdens on non-profit associations by requiring "expressed written consent" from their own members prior to sending a fax announcement of association activities. I hope you share in our concern over this onerous restriction of legitimate association business activity.

The new FCC reading of the TCPA prohibits any person or entity from sending any fax that contains an unsolicited advertisement which is defined as "any material advertising the commercial availability or quality of any property, good, or services which is transmitted to any person without that person's prior express invitation or permission." As a result, the established business relationship is no longer sufficient to permit faxes to be transmitted. Associations and businesses are now faced with the challenging administrative, legal, economic and record keeping ramifications that will arise thanks to the new FCC changes.

We are pleased that the FCC has stayed implementation of these proposed changes until January 1, 2005. However, even at that time these changes will create a significant economic and labor-intensive burden for the association community. The adjustment in the TCPA will require signed written consent to allow faxes to be sent that contain unsolicited advertisements. It would even require a non-profit association to obtain the written consent of its members in order to send faxes pertaining to events such as annual meetings.

While these changes may be suitable for residential telephone numbers as the new Do Not Call registry provides, they are certainly not acceptable for association-to-member facsimile communications. Non-profit associations rely on faxes as a prime source of communication and marketing to meet the needs of their members.

With penalties reaching \$1,500 per unauthorized fax, this is a burden that few associations can financially endure. The proposed FCC changes are a prime example of an

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idea where the disadvantages and unintended consequences far outweigh the benefits. Please join us in requesting that the FCC halt their efforts to change the current TCPA

Sincerely,

A handwritten signature in black ink, appearing to read 'Sly James, Jr.', with a stylized, cursive script.

Sylvester "Sly" James, Jr.  
President

Cc Margaret Egler, Esq  
Federal Communications Commission